07.01.2021.
Item no. 28.
Court No.13
ap

W.P.A. No. 11807 of 2020
(Through Video Conference)

Nasim Khan
Versus
The State of West Bengal & Ors.

Mr. Syed Nurul Arefin,
Mr. Yahya Mosharaf Hussain.
...For the petitioner.

Mr. Subhrangsu Panda.
...For the State.

Mr. Prosenjit Mukherjee,
Ms. Madhurima Sarkar,
Mr. Sourav Sardar,
Mr. Argya Kamal Das
...For the Madrasah Service Commission.

The writ petitioner was originally engaged as an Assistant Teacher by recommendation dated 1st October, 2008 to the Sekhpara Junior High Madrasah in Malda. He had applied for transfer sometime in the year 2011 and appeared for counseling in the year 2012.

Since the petitioner did not get place or posting of his choice, he did not accept any of the options given to him and his case was deferred for being considered under the next transfer scheme.

In the meantime, the petitioner once again participated in the 6th State Level Selection Test conducted for the year 2013 and succeeded in the same. He was recommended to join Jankapur High

Madrasah, Paschim Medinipur in the year 2018, which he in fact joined.

The petitioner was called for counseling in the year 2020 based on his application as an Assistant Teacher of Sekhpara Junior High Madrasah at Malda in the year 2020. His application was rejected by the Commission since the same was no longer valid. The invalidity arose by reason of the petitioner's joining the Jankapur High Madrasah in the year 2018.

Counsel for the petitioner would argue that since the service of the petitioner is continuing since 2008, his application for transfer ought to have been considered notwithstanding the fact that he has left the Sekhpara Junior High Madrasah.

This Court has carefully considered the arguments of the petitioner and that of the Commission.

While it is true that the petitioner was serving under the Commission from the year 2008, the change of Madrasah in the year 2018 from Sekhpara Junior High Madrasah to Jankapur High Madrasah would automatically invalidate the original application.

In those circumstances, no relief can be granted to the petitioner in the instant writ application.

However, it is provided that the petitioner shall be entitled to make an application afresh from Jankapur High Madrasah as expeditiously as possible

and the same shall be considered in the next process of transfer that may be undertaken by the Commission.

Needless to mention that the seniority for the purpose of empanelment and priority for transfer shall be reckoned from the year 2018 and not 2013.

With the aforesaid observations, in the instant writ application shall stand disposed of.

There will be no order as to costs.

All parties are directed to act on a server copy of this order on usual undertakings.

(*Rajasekhar Mantha*, J.)